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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5350/2025 & CM APPL. 24383/2025

HIMALAYAN FLORA AND AROMAS PVT. LTD.Petitioner

Through: Mr. Amit Sibal, Sr. Adv. with Mr. Anand Mishra, Ms. Vandita Nain, Ms. Ayushi Rajput, Ms. Smriti Nair, Mr. Devansh Pundir, Mr. Vinarma Kopariha and Mr. Vinay Tripathi, Advs.
M: 7300587584

versus

MUNICIPAL CORPORATION OF DELHIRespondent

Through: Mr. Tushar Sannu, (SC for MCD) with Mr. Shivam, Mr. Parwin Bansal, Mr. Priyankar Tiwari, Mr. Naman, Advocates with Mr. Ved Prakash (SO) alongwith Mr. Sanjeev Kumar Choudhary (ASO) for MCD
M:9911991166

+ W.P.(C) 5360/2025 & CM APPL. 24414/2025

MR. RAVIKASH PATELPetitioner

Through: Mr. Anand Mishra, Ms. Vandita Nain, Ms. Ayushi Rajput and Mr. Devansh Pundir, Advs.
M: 7300587584

versus

MUNICIPAL CORPORATION OF DELHIRespondent

Through: Mr. Tushar Sannu, SC with Mr. Shivam, Mr. Parwin Bansal, Mr.



Priyankar Tiwari, Mr. Naman,
Advocates with Mr. Ved Prakash
(SO) alongwith Mr. Sanjeev Kumar
Choudhary (ASO) for MCD
M:9911991166

**CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA**

JUDGMENT
19.05.2025

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MINI PUSHKARNA, J:

1. By way of the present petitions, the petitioners seek to challenge the letters dated 21st April, 2025 issued by the respondent/Municipal Corporation of Delhi (“MCD”), declining to extend the contracts/allotments of the petitioners for display of advertisements through unipoles, for a further period of two years. The petitioners were issued contracts for displaying advertisements through unipoles in the year 2022 for a period of ‘3+2’ years. As per the petitioners, they have performed the contracts satisfactorily from 2022 till date, and therefore, are entitled to extension of contract for further two years, as per the terms of the contract. Since such extension for further two years, has been denied to the petitioners by the impugned letters dated 21st April, 2025, the present writ petitions have been filed.

2. The facts of the present cases, as canvassed in the writ petitions, are as follows:

2.1 The respondent/MCD issued a tender on 1st December, 2021 for ‘allotment of advertisement rights through designated clusters/individual unipole sites under the jurisdiction’ of the respondent. At the time of



issuance of the tender, the same was issued by erstwhile East Delhi Municipal Corporation (“EDMC”), which has since been reunified into a single entity as MCD, with effect from 22nd May, 2022.

2.2 The contract/award of tender was for a total period of ‘3+2’ years. The contract was to be initially awarded for a period of three years, and then further extended by two years based on the successful bidder’s satisfactory performance of the contract during the initial three years.

2.3 The petitioners participated in the bid process and were declared the highest bidder for unipoles at several sites. The petitioners were accordingly issued various offer letters dated 18th May, 2022 and 10th June, 2022, which were for the period of ‘3+2’ years with enhancement in the Monthly License Fee (“MLF”) of 10% from the commencement of fourth year of contract and also 10% increase on awarded MLF every year during the extended period, if extended by the commissioner on performance basis.

2.4 The initial three year period of contract of the petitioners is about to expire in June, 2025. Therefore, the petitioners vide letters dated 6th January, 2025, 18th February, 2025, followed by reminders dated 31st January, 2025, 28th February, 2025 and 4th March, 2025, respectively, requested the respondent to issue letters for extension of contract for further two year period.

2.5 Since the petitioners did not receive any response to any of their requests, the petitioners were constrained to approach this Court by way of writ petitions, being *W.P.(C) 3587/2025*, titled as *Himalayan Flora and Aromas Pvt. Ltd. Versus Municipal Corporation of Delhi* and *W.P.(C) 3634/2025*, titled as *Ravikash Patel Versus Municipal Corporation of Delhi*. The said writ petitions were allowed *vide* orders dated 24th March, 2025,



thereby, directing the respondent to consider and decide the representations of the petitioners within a period of three weeks, under intimation to the petitioners.

2.6 Since the representations of the petitioners were not decided within a period of three weeks, as directed by this Court, the petitioners approached this Court by way of contempt petitions. Thereafter, the petitioners received the impugned letters dated 21st April, 2025, by which, the respondent declined to extend the contract/allotment of the petitioners for further two years. Thus, the present writ petitions have been filed.

3. On behalf of the petitioners, it is contended as follows:

3.1 The allotment/contract was to be awarded for a total period of five years, i.e., for an initial period of three years, extendable for further two years, subject to satisfactory performance of the contract by the contractor.

3.2 The extension of the allotment period for a further two years and the criterion for such extension, i.e., satisfactory performance during the first three years, were both agreed and expressly provided in the tender itself. The scope of discretion for granting an extension under Clause 15 was, therefore, restricted to satisfactory performance by the petitioners.

3.3 The petitioners submitted their bids in response to the tender terms and invested large sums in consonance with a legitimate expectation of a five year contract, if performance was found to be satisfactory.

3.4 The petitioners have performed the contract satisfactorily from 2022 till date. The respondent has not intimated any concerns or shortcomings or dissatisfaction with the petitioners' performance. Therefore, as per the tender terms, the respondent is bound to extend the contract/allotment period of the petitioners.



3.5 The respondent by the impugned letters has refused to grant the extension of contract to the petitioners, citing reasons, which are extraneous to the tender. This action of the respondent is arbitrary, unfair and violative of Article 14 of the Constitution of India.

3.6 The respondent has, during the course of its arguments before this Court, attempted to improve its case beyond the reasons contained in the impugned letters, which is impermissible.

3.7 The respondent is an entity covered under Article 12 of the Constitution, and is required under law to act fairly, reasonably and non-arbitrarily even in contractual matters. It has been held by Courts that termination of subsisting contracts on the possibility of earning more money, would be arbitrary, and would invite interference by writ courts.

3.8 The respondent by declining to issue letters of extension of contracts/allotments to the petitioners *vide* impugned letters, is resorting to changing the rules of the game in the midst of the game. This amounts to unilateral re-writing of an ongoing contract.

3.9 None of the reasons stated in the impugned letters were made part of the tender notice or the offer letters/allotment letters, for curtailing the period of contract to three years, as against the actual allotted period of five years. It is nowhere mentioned that even if the performance of the contract by the petitioner is satisfactory, then too, the respondent would have discretion to curtail the period of contract to three years against the actual allotted five years.

3.10 Neither the tender notice, nor the offer letters/allotment letters, provided any right to the respondent to change the terms of the contract on the alleged basis of shift in policy, or on the expectation of receiving higher



revenue. The tender term clearly and expressly provided that the allotment would be extendable by two years after the initial three years, and that such extension would be based on satisfactory performance.

3.11 The respondent's discretion to extend the contract is clearly circumscribed in Clauses 7 and 15 of the tender, and the extension of contract is to be given on the basis of satisfactory performance of the contract by the petitioners. The discretion of the Commissioner of MCD is limited to assessing whether the petitioners' performance has been satisfactory or not. The phrase '*as decided by the Commissioner*' in Clause 7 of the tender notice cannot be read *de hors* the performance criteria to countenance arbitrary extension or rejection of extension by the respondent. The respondent's contention would render the express provision regarding satisfactory performance of the contract, nugatory.

3.12 In the present case, the satisfactory performance of the contracts, by the petitioners, is not in dispute. The respondent has never raised any complaint regarding the performance of contract by the petitioners. In the absence of any complaints regarding the performance of the contracts by the petitioners, the contracts have to be extended for further period of two years.

3.13 Once the petitioners have performed their part, the respondent is estopped from going back on its part and it has to fulfill its obligation. The contractual stipulation of allotment being for total five years, the extension for further two years depending on satisfactory performance by the petitioner, has given rise to a legitimate expectation in favour of the petitioner, that if it does not default in performing the contract to the satisfaction of the respondent, then the contractual period of further two years, would not be curtailed.



3.14 In the present case, the respondent has not placed on record any resolution or any office order evidencing the alleged 'strategic policy shift'. Further, no such alleged policy shift can be made applicable retrospectively and arbitrarily to the petitioners' ongoing contracts. The respondent has not produced any material to support its contentions that there has been indeed a change of policy or that the petitioners' bids were financially depressed and that the current market would avail the respondent more money.

3.15 Fresh tender issued by the respondent on 24th April, 2025 for the sites which are currently operated by the petitioners, show that the terms of the tender remain unchanged. This evinces that there has been no change in policy whatsoever. Even the fresh tender issued by the respondent nowhere mentions that the contract period can be curtailed to three years against the actual five years period, if the respondent expects to receive a higher revenue or wishes to change its policy.

3.16 The respondent's discrimination against the petitioners is brought out by the fact that the respondent has in fact granted an extension to another contractor, M/s Outdoor Communications Pvt. Ltd. on 06th July, 2023, on a contract awarded to it on 27th July, 2020, which was in fact in the midst of the COVID-19 pandemic. Additionally, the petitioners' bids were not submitted and accepted during the COVID-19 period, but after the COVID-19 period. The offer letters were issued to the petitioners on 18th May, 2022 and allotment letters were issued on 10th June, 2022. The sites were made operational in August/September, 2022, i.e., much after the second wave of COVID-19, which ended in June, 2021.

3.17 The action of the respondent is not only arbitrary, but also in violation of Articles 14, 19 and 21 of the Constitution of India. It is against



the interest of the public exchequer, as it dissuades the likes of the petitioners from freely and faithfully participating in the tender processes of the respondent.

3.18 The present writ petitions are maintainable. The challenge in the present cases is to the arbitrary, callous, unreasonable and unfair conduct of the respondent. The respondent is bound to act fairly and in good faith, even in matters of contracts. The Courts have held time and again that even in contractual matters, the State cannot shun away from its responsibility to act fairly. Any departure in the State action from fairness, can be tested on the touchstone of the Constitution by the Constitutional Courts, without mandatorily relegating the parties to alternative remedies, including, arbitration.

4. *Per contra*, on behalf of the respondent, it has been submitted as follows:

4.1 As per the terms of the original contract, the contract period was set for three years term, with the possibility of extension solely at the discretion of the MCD. After the completion of the three year term, it was within the MCD's prerogative to decide whether or not to grant an extension for an additional two years.

4.2 Extension of the contract is not mandatory for respondent/MCD and MCD has to exercise financial prudence in taking decisions on whether or not to extend the contract.

4.3 Clause 15 of the tender document expressly disclaims any automatic extension and specifically provides that the extension is purely discretionary. Satisfactory performance of the contract is not the sole ground for extension of the contract and the extension should also be financially



beneficial to MCD.

4.4 Tenders for the present contract took place when COVID was prevailing, and an uncertainty persisted at that time. The markets/economy, have since, become more robust. Now, because of the improving market situation, advertising space is in more demand and the market has responded very well to the recent tenders floated by the department.

4.5 As MCD is reeling under financial stress, hence, protecting and augmenting the revenue of MCD is very critical. In the light of the improved market conditions post pandemic, MCD has made the decision to re-tender the contracts. This decision is driven by the desire to align with current market conditions and explore competitive bids that reflect up-to-date market rates.

4.6 The MCD has implemented a comprehensive restructuring of its outdoor advertising policy with the goal of improving public safety, increasing transparency and boosting revenue. Key changes include mandatory structural stability certification, the option to convert 25% of advertising media to LED formats, the introduction of mandatory double sided allotments, a 10% increase in the MLF from the third year and the allotment of unipoles/clusters, with latitude and longitude based locations.

4.7 The discretionary power to grant extensions was exercised legally, rationally and without bias. The principle of financial prudence requires maximizing revenue, particularly, in light of post-covid market conditions, making competitive bidding crucial.

4.8 The satisfactory performance would not automatically entitle the petitioner to an extension. The tender document explicitly links the extension to approval from the competent authority and not simply



performance.

4.9 The present writ petitions cannot be maintained, because the issues raised relate only to the contract terms and the extension dispute, which should be resolved through arbitration, as agreed in Clause 30 of the E-Tender Notice.

4.10 Whether the petitioners are entitled to extension or not, are purely disputed questions of facts, which cannot be delved into in a petition under Article 226 of the Constitution of India.

5. Having heard learned counsels appearing for the parties, this Court at the outset notes that the essential dispute raised in the present writ petitions, is as to whether in the present cases, the contracts entailed automatic extension of further two years, after the initial period of three years of the contract, if there was satisfactory performance of the contract by the petitioners.

6. An E-Tender Notice dated 01st December, 2021 was issued by the erstwhile EDMC, now MCD, for allotment of advertisement rights through designated clusters/individual unipole sites, under its jurisdiction. Clause 7 of the General Terms and Conditions of the Tender, with regard to period of the contract, reads as under:

7.	Period of Concession	The contract period shall be for a period of 03 years and further extendable for another 02 years subject to satisfactory performance of the firm and as decided by the Commissioner, EDMC and 10% enhancement in awarded MLF from 4 th year and also 10% increase on awarded MLF every year during the extended period, if extended by the Commissioner EDMC. After expiry of the contract period, either on account of completion of the concession period or pre-termination of the contract on any account whatsoever, the contractor shall hand over possession of the unipole(s) with complete structures, fittings and fixtures to the Commissioner, EDMC or any other person authorized by him. At the time of handing over of possession to the EDMC, it shall be ensured that the unipoles(s) is/are in proper condition and that no damage is caused by removing the fixtures and fittings, except the advertisement boards.
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7. Reference may also be made to Clause 15 of the General Terms and Conditions of the Tender regarding extension of contract, which reads as under:

15.	Extension of contract.	The contract of each cluster will be awarded to the successful H-1 bidder, initially for 3 years only, extendable for 2 terms of one year each, subject to satisfactory performance of contract. However, the contractor may apply for the extension of contract, 3 months prior to completion of three year contract period. Any application made during the last 3 months of contract, will not be entertained by the department. The application for extension of contract does not entitles any right of extension of contract, the commissioner EDMC or any authorized officer by him shall be at liberty to grant or reject request for extension of contract.
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8. Reading of the aforesaid Clauses of the General Terms and Conditions of the Tender, brings forth the following:

8.1 The contract was for a period of three years.

8.2 The period of contract was extendable for another two years, subject to satisfactory performance, and as decided by the Commissioner.

8.3 The contractor had the liberty to apply for extension of contract after completion of initial three years of contract, three months prior to the completion of the three year contract period.

8.4 An application for extension of contract does not entitle the contractor, any right of extension of contract. The Commissioner, MCD or any officer authorized by him, shall be at liberty to grant or reject the request for extension of contract.

9. The aforesaid General Terms and Conditions of the Tender, form the contractual conditions, and govern the contractual relations between the parties. Perusal of the aforesaid terms makes it evident that no vested or legal right was conferred upon the petitioners for extension of their contract, after the expiry of initial period of three years. The only right conferred on



the petitioners was to apply for extension of their contracts, subject to satisfactory performance of the contracts in the initial three years of the contracts. Upon applying for such extension, the discretion lay with the Commissioner, MCD, or his authorized officer, to grant or not to grant extension for further two years.

10. There cannot be any legitimate expectation in contractual matters, beyond the terms of the contract, or in violation of the terms of the contract. The terms of the contract have to be strictly interpreted and adhered to. Automatic extension of contract after expiry of initial three years, upon satisfactory performance, is not envisaged in the contract. Therefore, a benefit which is not contemplated in a contract, can neither be prayed for, nor granted. The rights of the parties are governed by the specific clauses of the contract and within the contours of the contractual provisions.

11. In this regard, reference may be made to the judgment of Supreme Court in the case of *Rajasthan State Industrial Development and Investment Corporation and Another Versus Diamond & Gem Development Corporation Limited and Another*, 2013 SCC OnLine SC 143, wherein, it has been held as follows:

“xxx xxx xxx

23. A party cannot claim anything more than what is covered by the terms of contract, for the reason that contract is a transaction between the two parties and has been entered into with open eyes and understanding the nature of contract. Thus, contract being a creature of an agreement between two or more parties, has to be interpreted giving literal meanings unless, there is some ambiguity therein. The contract is to be interpreted giving the actual meaning to the words contained in the contract and it is not permissible for the court to make a new contract, however reasonable, if the parties have not made it themselves. It is to be interpreted in such a way that its terms may not be varied. The contract has to be interpreted without any



outside aid. The terms of the contract have to be construed strictly without altering the nature of the contract, as it may affect the interest of either of the parties adversely. [Vide *United India Insurance Co. Ltd. v. Harchand Rai Chandan Lal* [(2004) 8 SCC 644 : AIR 2004 SC 4794] and *Polymat India (P) Ltd. v. National Insurance Co. Ltd.* [(2005) 9 SCC 174 : AIR 2005 SC 286]]

xxx xxx xxx”

(Emphasis Supplied)

12. By way of the impugned letters dated 21st April, 2025, the respondent has refused to grant extension of further two years on the grounds, as stated in the said letters, which are reproduced as under:

“xxx xxx xxx

It is informed that the Competent Authority has carefully examined your request on the basis of the following aspects:

1. Contractual Stipulations:-

As per the terms of the original contract, the contract period was set for three years, with the possibility of extension solely at the discretion of the MCD. After the completion of the three-year term, it was within the MCD's prerogative to decide whether or not to grant an extension for an additional two years. Extension of the contract is not mandatory for MCD. MCD has to exercise financial prudence in taking decisions on whether or not to extend the contract. Satisfactory performance of the contract is not the sole ground for extension of the contract. The extension should also be financially beneficial to MCD. MCD is not legally bound to extend the contract; it is duty-bound to maximize its revenue. As a public statutory local body, MCD has a fiduciary responsibility to maximize the value derived from public resources.

2. Re-Tendering for Market Alignment:-

The tenders for the present contract took place when Covid was prevailing, and uncertainty persisted at that time. The markets/economy have since become more robust. During the COVID period, advertising space was less in demand. Now, because of the improving market situation, advertising space is in more demand, and the market has responded very well to the recent tenders floated by the department. As such, price discovery should be done to maximize the



revenue of MCD. MCD is reeling under financial stress. Hence, protecting and augmenting the revenue of MCD is very critical, and no efforts should be spared to maximize the revenue of MCD. In light of the improved market conditions post-pandemic, MCD has made the decision to re-tender the contracts. This decision is driven by the desire to align with current market conditions and explore competitive bids that reflect up-to-date market rates. This approach will ensure that MCD receives optimal value for public resources and prevents the undervaluation of advertising space.

3. Strategic Policy Shift:-

The Municipal Corporation of Delhi (MCD) has undertaken a comprehensive restructuring of its outdoor advertising policy with the objective of enhancing public safety, ensuring greater transparency and augmenting revenue. Which includes the mandatory incorporation of structural stability certification clauses, option of conversion of 25% of advertisement media to IID formats. Mandatory double sided allotment in place of earlier arrangement where some contracts were single sided while other were double sided. 10% enhancement in Monthly License Fee (MLF) from the third year and Allotment of unipoles/clusters with Latitude longitude based location.

In order to maintain uniformity and to facilitate the effective implementation of the updated policy across all advertising sites, it is imperative that fresh tenders be invited under the new structure rather than extending contracts governed by outdated norms.

Conclusion:-

Extension of contracts based on the undervaluation of valuable advertising spaces may result in significant revenue losses to the Municipal Corporation of Delhi (MCD). Furthermore, the terms of the contracts stipulate that extensions are at the discretion of MCD and do not mandate automatic renewal. The justifications and conditions outlined above necessitate a thorough reconsideration of the management of public resources. The current stand of MCD aligns with prevailing market trends, addresses revenue leakages, prevents unauthorized use of advertising spaces, and ensures the optimization and augmentation of revenue.

As the custodian of public resources, MCD has a responsibility to prioritize actions that maximize public benefit. The same has been demonstrated effectively through recent tenders.



Accordingly, it has been decided that the request regarding discretionary extension of the contract for an additional two years, following completion of the initial three-year term, be declined.

This is without prejudice to any rights of MCD and with the approval of the Competent Authority.

xxx xxx xxx”

13. Perusal of the aforesaid letter shows that the respondent/MCD has given cogent reasons for declining the request of the petitioners for further extension of the contract. The said reasons, as given by the respondent, cannot be said to be irrational or arbitrary or whimsical. At the time of considering the decision taken by an authority, this Court would only examine that the decision making process undertaken by the said authority is proper, and has been exercised in accordance with the power vested in the said authority. If the process followed by an authority in arriving at a decision is proper, this Court will not look into the merits of the decision taken by the authority, if the same is not arbitrary or discriminatory, in any manner.

14. The petitioners have not been able to establish that the decision taken by the respondent is arbitrary, unreasonable or discriminatory, in any way. The decision taken by the respondent is plausible, and has been undertaken in exercise of the authority and discretion vested in it. The petitioners cannot claim extension of contract as a matter of right, merely on the basis of satisfactory performance of contract for the initial three years of the contract. The terms of the contract are categorical in their stipulation that the application for extension of contract does not entitle any right of extension of contract. It is clearly stipulated that the Commissioner, MCD or any officer authorized by him, shall be at liberty to grant or reject request for



extension of contract. The reasons given by the respondent for rejection of the request of the petitioners for grant of extension are tenable, and this Court will not go into the merits of the said decision, in the absence of any arbitrariness or unreasonableness.

15. As regards the contention of the petitioners that there has been a change in the policy midway, the same is absolutely without any basis. Merely because a decision has been taken by the respondent for declining the request of the petitioners, and certain reasons have been given for such rejection of their request for extension, the same does not in any manner entail change in the policy of the respondent. The discretion exercised by the respondent is within the domain of its jurisdiction.

16. The fact that on previous occasions, extensions have been granted by the respondent to the petitioners or other contractors, does not connote that the respondent is bound to grant such extensions for subsequent contracts also, when a uniform decision has been taken by the respondent to not grant such extensions. No instance has been brought forth before this Court that the respondent is not following its decisions uniformly, by granting extensions to other contractors during the current year, while denying the same to the petitioners. When uniform decisions are being taken by the respondent and no discriminatory treatment has been meted out to the petitioners, no ground is made out to interfere with the decision taken by the respondent in exercise of the authority vested in it.

17. It has been held time and again that Courts ought to exercise judicial restraint in respect of the decisions made by various authorities. In the absence of constitutional or legal violations, the Courts should respect the policy choices made by the authorities. If the decision is within the



executive's legal authority and has been made following proper procedures, the Courts ought not to interfere, even if the said decision appears unwise or imprudent. It is not the role of the Courts to question the wisdom or fairness of such decisions. Thus, in the case of *Kirloskar Ferrous Industries Limited and Another Versus Union of India and Others, 2024 SCC OnLine SC 3192*, it has been held as follows:

“xxx xxx xxx

54. Judicial restraint is rooted in the understanding that courts should respect the decisions made by the legislative and executive branches, provided these decisions are legally sound and constitutionally valid. By adhering to judicial restraint, courts avoid overstepping their constitutional role and thereby prevent potential conflicts with the executive and legislative branches. The principle of separation of powers supports the idea that each branch has a unique role, and mutual respect between these branches is essential for the proper functioning of the Government. The courts are to ensure that laws and policies do not infringe upon citizens' rights or exceed the authority granted by law. However, this role does not extend to evaluating whether a policy is “wise” or whether a better one could be devised, and rather this process is entrusted to the legislature and executive, which have the expertise to make these determinations.

55. The doctrine of judicial restraint, which is central to this discussion, emphasises that courts should exercise caution and avoid involvement in policy decisions, as these are complex judgments that require a balancing of diverse and often competing interests. Policies are crafted based on thorough analysis of social, economic, and political factors, considerations beyond the court's purview. The court is tasked with ensuring that policies do not breach constitutional provisions or statutory limits; however, they should not replace policy-makers' judgments with their own unless absolutely necessary.

56. Policy decisions often require the expertise of professionals and specialists in fields such as economics, public health, national security, and environmental science. These domains involve specialised knowledge that Judges, as generalists in legal matters, may lack. For instance, in economic policy, the executive may decide on trade tariffs or subsidies based on extensive data and projections



that aim to balance domestic industry support with global trade commitments. The courts, lacking the same level of economic expertise and without the authority to make trade-offs among competing policy objectives, are typically not equipped to second-guess these kinds of decisions.

57. While courts have the power of judicial review to ensure that executive actions and legislative enactments comply with the Constitution, this power is not absolute. Judicial review is meant to act as a safeguard against actions that overstep legal boundaries or infringe on fundamental rights, but it does not entail a comprehensive re-evaluation of the policy's wisdom. The judicial review of policy decisions is limited to assessing the legality of the decision-making process rather than the substantive merits of the policy itself. For example, if a government policy infringes on fundamental rights or discriminates against a particular group, the courts have a duty to strike down such policies. However, in the absence of constitutional or legal violations, the courts should respect the policy choices made by the executive or legislature.

58. The duty of the court in policy-related cases is primarily to determine whether the policy falls within the scope of the authority granted to the relevant body. If the policy decision is within the executive's legal authority and has been made following proper procedures, the courts should defer to the expertise and discretion of the policy-makers, even if the policy appears unwise or imprudent. This restraint ensures that the courts do not impose its own perspective on policy matters that are rightly the responsibility of other branches.

xxx xxx xxx

60. The courts should assume that policy-makers act in good faith unless there is clear evidence to the contrary. As long as the policy does not contravene the Constitution or violate statutory provisions, it is not the role of the courts to question the wisdom or fairness of such policy.

xxx xxx xxx”

(Emphasis Supplied)

18. It is trite law that an interference with the decision/policy of the authorities would not be warranted, unless it is found that the said decision/policy is palpably arbitrary, malafide, irrational or violative of the



statutory provisions. (*See: Para 64, Yamuna Expressway Industrial Development Authority and Others Versus Shakuntala Education and Welfare Society and Others, 2022 SCC OnLine SC 655*)

19. Likewise, while emphasizing the exercise of restraint by the Courts in contractual or commercial matters, Supreme Court in the case of *Silppi Constructions Contractors Versus Union of India and Another, 2019 SCC OnLine SC 1133*, has held as follows:

“xxx xxx xxx

19. This Court being the guardian of fundamental rights is duty-bound to interfere when there is arbitrariness, irrationality, mala fides and bias. However, this Court in all the aforesaid decisions has cautioned time and again that courts should exercise a lot of restraint while exercising their powers of judicial review in contractual or commercial matters. This Court is normally loathe to interfere in contractual matters unless a clear-cut case of arbitrariness or mala fides or bias or irrationality is made out. One must remember that today many public sector undertakings compete with the private industry. The contracts entered into between private parties are not subject to scrutiny under writ jurisdiction. No doubt, the bodies which are State within the meaning of Article 12 of the Constitution are bound to act fairly and are amenable to the writ jurisdiction of superior courts but this discretionary power must be exercised with a great deal of restraint and caution. The courts must realise their limitations and the havoc which needless interference in commercial matters can cause. In contracts involving technical issues the courts should be even more reluctant because most of us in Judges’ robes do not have the necessary expertise to adjudicate upon technical issues beyond our domain. As laid down in the judgments cited above the courts should not use a magnifying glass while scanning the tenders and make every small mistake appear like a big blunder. In fact, the courts must give “fair play in the joints” to the government and public sector undertakings in matters of contract. Courts must also not interfere where such interference will cause unnecessary loss to the public exchequer.

xxx xxx xxx”

(Emphasis Supplied)

20. The contention of the petitioners that the subsequent tenders floated



by the MCD also contain similar clause regarding extension of contract for two years after initial period of three years, does not benefit the petitioners in any manner. The said clause of the subsequent tenders simply connotes the discretion vested in the MCD for extension of contract, after the initial period of three years, which discretion shall be exercised by the MCD on rational basis. Existence of such a clause for extension does not indicate that such extension has to be granted mandatorily by the MCD.

21. Reliance by the petitioner upon the judgment in the case of *SK Associates Versus Municipal Corporation of Delhi, 2024 SCC OnLine Del 2300*, is completely misplaced. The said judgment is clearly distinguishable and does not come to the aid of the petitioners. The terms of the contract in the said case, as given in Para 13 of the aforesaid judgment, are reproduced as under:

“xxx xxx xxx

13. The Tender dated 14th August, 2020 contained specific terms and conditions with respect to the intended period of the contract, wherein Clauses 4 and 8(i) read as under:

“4. Duration of Contract:

*The duration of the contract/license will be for the duration of three years with effect from the date of handing over the site to the licensee. After the expiry of two years, the monthly license fee will be enhanced by 05% (five percent for the next year, subject to the satisfactory completion of period of first two years of contract. The parking site allowed operating **beyond three** years period (in any circumstances) then the contractor has to pay monthly license fee by enhancing 05% of last/current MLF.*

The duration or the parking site will not be enhanced on the ground that the said parking site was closed/cancelled due to some administrative reasons or any other reasons.

The duration of contract period i.e. three years will be considered from the date of possession only. The period will not be enhanced on



the ground that the parking site was operational from any other date or the same was un-operational for some period during the tenure.

However, if the licensee continues to operate the site after expiry of period and without any permission from EDMC, he shall be liable to pay to the corporation the misuse/damages charges @ double the monthly license fee for such period of unauthorized occupation. The firm/individual will also be blacklisted for future tender.”

.....

“8. Payment of security deposit and Monthly license fee (MLF):

(i) As the tenure of each parking site is only for three years, successful bidder shall have to deposit six months advance license fee along with applicable taxes from date of possession. The license fee has to be paid in the form of Demand Draft Only (Cheque will not be entertained) in the name of the “Commissioner, EDMC”, Before start of second half year, the licensee will have to deposit license fee for the next six months period, fifteen days before the end of first half year. Before completion of two years of the license the licensee will have to deposit half yearly license fee with 05% enhancement in the MLF fifteen days & before the end of second year for continuation of the license for the next half year period. All these payments should be made from the corresponding bank account of the concerned firm/individual/company. The successful contractor has to deposit all applicable taxes (present as well as future levied taxes on parking activity along with the quoted monthly license fee of respective parking site.”

(Emphasis supplied)

xxx xxx xxx”

22. On the basis of the aforesaid terms of contract existing in the said case, the Division Bench in the aforesaid case of *SK Associates (supra)*, held that the intended duration of the license under the tender in question, was three years and not two years. Thus, in the facts and circumstances of the said case, it was held that the extension for third year could have been refused by the respondent therein, only if the contractor had failed to satisfactorily complete the first two years of the license. However, in the present case the intended duration of the license was not five years, but only



three years, with discretion vested in the Commissioner, MCD, to grant or reject further extension for two years. The discretion to grant or reject extension clearly vests with the Commissioner, MCD in the present case, even in cases where there is satisfactory performance for the initial period of the contract.

23. The decisions relied upon by the petitioners in the cases of *Vice-Chairman and Managing Director, City and Industrial Development Corporation of Maharashtra Limited and Another Versus Shishir Reality Private Limited and Others*, (2022) 16 SCC 527; *Subodh Kumar Singh Rathour Versus Chief Executive Officer and Others*, 2024 SCC OnLine SC 1682 and *Jai Singh and Company Versus National Highway Authority of India*, 2023 SCC OnLine Del 168, are clearly distinguishable and do not aid the petitioners' case in any manner. The said cases dealt with termination of subsisting contracts. However, the same is not the position in the present cases, as the present cases pertain to rejection of the request of the petitioners for extension of their contracts.

24. It is to be noted that in a similar matter in the case of *M/s Milestone Security and Placement Services Versus Municipal Corporation of Delhi, O.M.P.(I) (COMM.) 14/2025*, vide order dated 17th January, 2025, this Court held in categorical terms that mere 'satisfactory completion' of the initial term of three years, would not automatically entitle the contractor to an extension for another year as a matter of right, but was the sole discretion vested in the respondent therein. Thus, it was held as follows:

“xxx xxx xxx

11. For the issue raised herein, Clause 3 of the terms and conditions would need to be visited, which is extracted hereunder:



“...**“3 Duration of License”**”

The license of surface parking will be for duration of two years and in case of MLUG/Stack Parking(s) the duration would be three years respectively (with effect from the date of handing over the parking site to the licensee). However, the period of the contract may be further extended by Commissioner/Addl. Commissioner for another period of One year on the same terms and conditions with enhancement of 10% in the existing MLF. However, the extension cannot be claimed by the contractor as a right. The extension is sole discretion of North DMC.

Satisfactory completion implies that there should not be any dues pending against the contractor... ”

12. A plain reading of the said clause would show that duration of the license agreement was for a period of three years and not four years as claimed by the petitioner. The language of the clause makes it evident that mere ‘satisfactory completion’ of the initial term of three years would not automatically entitle the contractor to an extension for another year. Rather, the extension of the license by a period of one year could not be claimed by the petitioner as a matter of right but was the sole discretion vested in the respondent.

xxx xxx xxx

17. A Division Bench of this Court in M/s Gesture Hotels and Food Pvt. Limited (Supra) wherein, while dealing with a similarly worded licensing clause as the present case, held that the entitlement of the NDMC in the matter of renewal is to be of absolute discretion of the corporation, whether for the right or wrong reasons.

xxx xxx xxx”

(Emphasis Supplied)

25. Considering the aforesaid detailed discussion, no error is found in the decision of the respondent/MCD in declining to extend the contract of the petitioners, for further period.

26. In view of the aforesaid finding, this Court is not required to consider the issue regarding maintainability of the present writ petitions, as raised by the respondent.

27. This Court is informed that tenders for the sites in question, have already been issued by the MCD. Further, the petitioners have also



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participated in the tender, without prejudice to their rights.

28. No merit is found in the present petitions. Accordingly, the present writ petitions, along with the pending applications, are dismissed.

**(MINI PUSHKARNA)
JUDGE**

MAY 19, 2025
Au/Ak/Kr